

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

Samuel Lee Sexton, Sr.

v.

Civil No. 10-cv-00400-JL

Utility Services Co., Inc.

ORDER AFTER PRELIMINARY
PRETRIAL CONFERENCE

The Preliminary Pretrial Conference was held in chambers on **April 4, 2011.**

The Discovery Plan (document no. 19) is approved as submitted, with the following changes:

- Jury trial - **October, 2012**

The parties will submit a new Rule 26(f) Discovery Plan that shall (a) include a summary judgment deadline no less than 120 days before trial, and (b) closure of all fact and expert discovery before the summary judgment deadline.

Based on the discussions between the court and counsel at the conference, the following are **stricken** without prejudice to being reinstated on request if warranted by the evidence:

- the plaintiff's claim for negligence per se (although any and all evidence and arguments permitted under New Hampshire law

shall be available to the plaintiff with respect to the negligence count (Count I));

- the following affirmative defenses: statute of limitations, insufficient service/process, improper venue, lack of personal jurisdiction, and misnomer of defendant.

Summary Judgment. The parties and counsel are advised that compliance with Rule 56(e) and Local Rule 7.2(b), regarding evidentiary support for factual assertions, and specification and delineation of material issues of disputed fact, will be required.

Discovery disputes. Discovery disputes will be handled by the undersigned judge, as opposed to the Magistrate Judge, in the normal course. No motion to compel is necessary. The party or counsel seeking discovery-related relief should confer with adverse counsel to choose mutually available dates, and then contact the Deputy Clerk to schedule a conference call with the court. The court will inform counsel and parties what written materials, if any, should be submitted in advance of the conference call.

Customary motions to compel discovery, while disfavored by the undersigned judge, are nonetheless permissible. If counsel prefer traditional discovery litigation to the conference call procedure set forth above, any such motion to compel should

expressly request, in the title of the motion, a referral to the United States Magistrate Judge. Such referral requests will normally be granted. If the Magistrate Judge is recused, alternate arrangements will be made.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: April 6, 2011

cc: Ralph A. Barbagallo, Jr., Esq.
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Joseph Gordon Yannetti, Esq.
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